

December 21, 2009

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Re: Docket No. R-1377, Regulation E – Gift Cards

Dear Ms. Johnson:

Branch Banking and Trust Company and its affiliated banks and subsidiaries of BB&T Corporation (BB&T) appreciate the opportunity to comment on the Board's proposed amendments to Regulation E related to gift cards. BB&T, with \$165.3 billion in assets, operates more than 1,800 financial centers in thirteen states and Washington, D.C.

We support the efforts of Congress and the Board to ensure that the fees, terms and other features of gift and other prepaid cards are clearly and completely disclosed to cardholders so that they may make informed decisions when purchasing and using these cards. While we are in agreement with many of the proposed rules, we have specific concerns with some provisions which are outlined below.

Funds Expiration Date Restrictions

We believe the requirement that the underlying funds may not expire sooner than 5 years after the card/certificate issuance or last load of funds will result in considerable cardholder confusion and inconvenience in the many states where abandoned property must be escheated prior to 5 years.

In states with shorter escheatment timeframes cardholders will be mislead into believing that their card funds will be available for a full 5 years, only to have their card transaction declined when the underlying funds have been remitted to the state a year or more before they anticipated. In the case of most gift cards, the issuer is unlikely to have a means of notifying the cardholder that the funds are being remitted to the state, and the issuer will be the likely recipient of the cardholder's anger upon finding their funds gone.

We urge the Board to clarify that state escheatment requirements are preempted by the proposed Reg E card and funds expiration provisions in order that issuers are not required to escheat funds to states until after both the card and funds expiration dates have passed and the issuer is no longer required to offer free replacement cards.

Card and Certificate Expiration Dates

The Board proposes two alternatives for ensuring that card and certificate expiration dates are no sooner than five years after the card/certificate is issued. We recommend that the Board adopt Alternative B, which provides issuers with an appropriate level of flexibility in issuing cards and certificates that meet the 5 year minimum expiration date requirement. We would also support rules that would allow issuers to adopt either Alternative A or B. We also ask the Board to clarify in the final rules that, in cases where a non-reloadable card/certificate and the underlying funds expire on the same date, there is no requirement to disclose any additional information about differences, or the lack thereof, between the expiration of the card/certificate and underlying funds.

Finally, we ask the Board to clarify that a card “activation” date which is subsequent to the card sale date does not “restart the clock” for calculating the expiration dates for either the card or the underlying funds.

Replacement Cards

The proposed amendment includes provisions related to disclosure of fees and methods for cardholders to obtain replacement cards. There are many operational considerations involved in providing replacement cards, including properly identifying the cardholder and their ownership of the underlying funds, as well as the costs of producing and mailing the card. In many cases, the cost of providing a replacement card may be significantly greater than the remaining card funds. For example, it would be unreasonable to require an issuer to provide a replacement gift card if the remaining underlying funds are \$0.99 and the funds expire within two weeks. We believe that the rules should grant issuers the right to remit the funds balance to the cardholder and not issue a replacement card in such cases and in other situations where issuance of a replacement card is not justified, as long as the restrictions on card replacement are clearly disclosed.

We also ask the Board to not adopt any requirement for the automatic reissuance of reloadable cards upon the card expiration date in cases in which the underlying funds will not expire until after the card expiration date. As noted in the proposal, many holders of reloadable cards do not routinely notify issuers of changes in their address. A requirement for automatic reissuance would result in an increased incidence of replacement cards being mailed to obsolete addresses, resulting in increased potential for fraudulent use of the cards as well as the expense of producing new cards that will never reach the cardholder. Instead, disclosures provided when the card is issued should indicate that the cardholder is responsible for requesting replacement of an expiring card by contacting the issuer and providing current mailing information for the new card.

Fees

We believe that the proposed rules related to gift card fees are generally reasonable, fair and beneficial to cardholders, yet flexible enough to encourage issuers to continue

providing gift card products to cardholders. We particularly applaud the Board's decision to not implement fee caps or minimum balance restrictions on fees. We are concerned, however, with the Board's proposed interpretation that dormancy, inactivity or service fees, which are limited to no more than one per month, include fees such as reload and balance inquiry fees. We believe that fees such as balance inquiry and reload fees are appropriately distinguished since they are initiated by the cardholder, generally occur only on an occasional basis, and represent an added or optional service (usually at an added cost to the issuer). In contrast, dormancy, inactivity or service fees represent periodic fees for non-use, carrying or maintenance of the gift card. We request that the Board clarify the rules to exclude fees arising from optional, cardholder-initiated actions from the definition of dormancy, inactivity or service fees.

Reloadable Cards

We support the Board's decision to exclude cards that are reloadable and not marketed or labeled as a gift card or gift certificate in the definition of gift certificate, store gift card and general use prepaid card. However, the proposed interpretation specifies that the term "reloadable" is limited to cards capable of "...having more funded added *by a cardholder* after initial purchase or issuance." There are numerous types of reloadable cards that are not marketed or labeled as gift cards that are not reloaded by the cardholder, including payroll cards reloaded solely by the employer, health savings and flexible spending account cards, insurance cards, disaster relief cards and corporate expense cards. We do not believe these types of cards should be treated as gift cards, and recommend that the interpretation be revised to eliminate the "by a cardholder" limitation.

Temporary Cards Issued in Conjunction with Reloadable General Purpose Cards

The Board requests comments on rules pertaining to non-gift general purpose reloadable cards that are initially sold as non-reloadable cards. We believe these temporary cards should be excluded from the rules. These cards are not gift cards or marketed as such, and are typically issued to the cardholder as a convenience to provide immediate access to their funds until such time as the associated personalized card is produced and mailed. As such, temporary non-reloadable cards sold solely in conjunction with non-gift general purpose reloadable cards should be excluded from coverage in the proposed rules.

Disclosures on the Card

The proposed rules have significant new requirements for information that must be disclosed on gift cards. These new rules would be in addition to the "on the card" disclosures required by many states (such as information related to FDIC coverage and rules related to liabilities for lost/stolen cards), requirements for the placement and size of network indicia for network branded cards, and the understandable need of stores to display their names and logos on closed loop cards. In addition, the proposed commentary describes restrictions for disclosures printed on top of background logos and those printed on the back of a card over embossing. Given that the card industry has a long-established standard card size of approximately 2 x 3.25 inches; it is highly

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questionable whether there would be sufficient space available to print the mandated disclosures and information in a legible manner on a typical gift card.

We urge the Board to limit the disclosures that must be printed on the individual card to just the most critical information, and to allow other important information to be disclosed on accompanying packaging or a sticker affixed to the card. In such cases, the card itself could include a statement that “other terms apply” and include the toll-free number or website where information about all card fees and terms can be obtained. We also recommend that the Board not adopt specific font and prominence requirements for the disclosures, and instead rely on a requirement that disclosures be “clear and conspicuous”, which we believe will ensure effective display of the disclosures while providing an appropriate level of flexibility to issuers.

Marketing and Labeling

We request that the Board clarify and/or modify the proposed commentary related to its descriptions of cards “marketed or labeled” as a gift card. For example, the implied requirement that separate displays be used for gift cards and non-gift cards would be an unreasonable requirement in many retail environments where there is not sufficient space for two separate card racks. There should also be clarification of how cards may be marketed and labeled when sold online and in catalogues, circulars and other advertising. We believe that selling both gift and reloadable non-gift cards from the same store display, website or catalogue should be permitted, and the exclusion for non-gift cards allowed, as long as the displays, website and catalogue clearly distinguish between the two types of prepaid cards and indicate that the reloadable card is not a gift card, and a purchaser of a reloadable non-gift card receives a disclosure, prior to purchase, indicating that the card is not a gift card.

Thank you for your consideration of our comments, and please feel free to contact me with any questions.

Sincerely,

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